

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	CR. 09-40118-09-KES
)	
Plaintiff,)	
)	
vs.)	ORDER DENYING MOTION
)	FOR RECONSIDERATION
TONY DAY,)	
a/k/a "50 Cent," a/k/a "50,")	
)	
Defendant.)	

Defendant, Tony Day, moves the court to reconsider its judgment on revocation dated August 13, 2013, wherein the court sentenced Day to 28 months in custody. The motion for rehearing was dated September 10, 2013, postmarked September 13, 2013, and filed on September 16, 2013.

"Absent a rule specifying the time in which a motion for rehearing or reconsideration must be filed, 'a petition for rehearing in a criminal case would be considered timely "when filed within the original period for review." ' "

United States v. Johnson, 980 F.2d 1212, 1212 (8th Cir. 1992) (quoting *Browder v. Director, Ill, Dep't of Corrections*, 434 U.S. 257, 268 (1978) (quoting *United States v. Healy*, 376 U.S. 75, 78 (1964)). A defendant must file a notice of appeal within 14 days of the entry of judgment in a criminal case. Fed. R. App. P. 4(b)(i).

Because the judgment was entered here on August 13, 2013, the last day for file a notice of appeal was August 27, 2013. As a result, the motion to reconsider is untimely. It is therefore denied.

IT IS ORDERED that defendant's motion for reconsideration (Docket 460) is denied.

Dated October 15, 2013.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE